REMARKS

Claims 1 to 5 continue to be under examination.

This Office action is in response to Applicants' remarks received July 20, 2006. Receipt is acknowledged of papers submitted under 35 U. S. C. 119(a)-(d), which papers have been placed of record in the file.

Priority: The benefit date is October 15, 2002, for the purpose of prior art.

Applicants appreciate the receipt and recognition of their priority documents. Applicants rely on this acceptance in their right to priority.

The Office Action refers to Withdrawal of Objections and Rejections

The objection to the disclosure because of minor informalities is withdrawn. The objection to claims 1-2 because of minor informalities is withdrawn. The rejection of claim 1 under 35 U.S.C., first paragraph, is withdrawn.

Applicants sincerely appreciate the withdrawal of the objections and rejection.

The Office Action refers to Objection and Rejections

The disclosure is objected to because of the following informalities: on page 1, the priority data needs to be updated. Appropriate correction is required.

Looking at page one of the disclosure, no priority data are seen, which priority data could be updated. Clarification of the issue of updating the priority data is respectfully requested.

Claims 1-5 stand rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The instant claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors. For example, claim 1 recites the terms "cleaning selection." It is unclear what is meant by cleaning selection or what it is. The claim also recites "removing from the skin, scales, skills." It is unclear what "skills" are. Furthermore, claims 1-2 contain grammatical errors throughout the claims that render them indefinite and confusing. Claim 3 also recites the terms "cleaning selection." It is unclear what is meant by cleaning selection or what it is. Further, the claim recites "removing scales, skills, and meat tissue from the skins." It is unclear what "skills" are. Also, claims 3-4 contain grammatical errors throughout the claims that render them indefinite and confusing. Claim 5 contains improper Markush language. The phrase, "wherein the natural materials are a selected from a member of the group consisting of' should be corrected to "wherein the natural materials are selected from the group consisting of."

The present amendment provides corrections to the claims which are deemed to obviate the rejections. "cleaning selection" now reads "separation for cleaning purposes" and refers to the separation of scales, gills and meat tissue from the salmon skins. Applicants have amended claims 1 and 3 to call for a cleaning separation.

Claims 1-3 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Biovaleur (FR 2806415; IDS) in view of Shimizu et al. (FR 2783836; IDS) and Macdonald et al. (US 20030004315; IDS).

The rejection is respectfully traversed.

Claim 1 requires "obtaining hydration of collagen contained in the skins,". In contrast, the three applied references agree to obtain the collagen by extraction. Applicants respectfully submit that where three applied references agree to perform a different step "extraction" than the applicant, that then applicants' step of "hydration" patentably distinguishes over the three references.

Biovaleur teaches a process for the preparation of a collagen composition obtained from fish skin comprising the mechanical process of washing the skins, followed by extraction with acid solution, and filtration (p. 1). The washed and/or cleaned fish skins are submerged and/or placed in, contact with an acid solution for a sufficient period of time, preferably 24-72 hours (p. 2). The fish skin/acid solution is the subjected to a filtering step under pressure in order to collect the filtrate. Biovaleur does not teach the purpose of the filtering step.

Claim 3 of the present application requires "manual cleaning with the use of tools made of natural materials, ". No such step is taught in the Biovaleur reference. Claim 3 of this application further requires: "placing raw material prepared in this fashion into a solution of lactic acid of more than 0.1 % concentration, ". The reference Biovaleur clearly fails to teach this step of placing raw material into a lactic acid solution.

Claim 3 further requires "obtaining hydration of collagen contained in the skins by a process carried out in glass containers,". In clear contrast, the reference Biovaleur fails to teach or suggest hydration of collagen in glass containers.

Claim 3 further contains the limitations: " conducting a running visual control of the process, ". No such control is furnished in the four corners of the Biovaleur reference.

Claim 3 calls further for "performing a filtration using silk filters of increasing density," and for "employing natural silk filters having a structure similar to the structure of collagen for preventing damage to the collagen structure.". The Biovaleur reference does not teach anything about an employment of silk filters for filtering.

Claim 3 also reads "removing cell elements, pigments and remains of the acid solution from collagen by repeated filtering;". There is no teaching of repeated filtering in the Biovaleur reference.

The Office Action continues:

Shimizu et al. also disclose a manufacturing method for fish collagen. Shimizu et al. teach that filtering a fraction of extracted collagen will eliminate residual substances including odorous greases, oils, and other substances (p. 2). Shimizu et al. do not teach using lactic acid to submerge the fish skins.

Applicants respectfully disagree.

Claim 3 also reads "removing cell elements, pigments and remains of the acid solution from collagen by repeated filtering;". There is no teaching of removing cell elements, pigments and remains of the acid solution by repeated filtering from collagen in the Shimizu et al. reference.

The Office Action continues:

Macdonald et al. disclose methods for extracting collagen products from the skin of cold water fish. Macdonald et al. teach that lactic acid is an antimicrobial organic acid.

Applicants respectfully disagree:

Claim 3 requires: "placing raw material prepared in this fashion into a solution of lactic acid of more than 0.1 % concentration, " and "obtaining hydration of collagen contained in the skins by a process carried out in glass containers,". There is no mentioning in the Macdonald et al. reference of placing raw material prepared in this fashion into a solution of lactic acid of more than 0.1 % concentration. Macdonald teaches in paragraph 30 to employ lactic acid or a salt thereof as a preservative to be added to a paste product of homogenized skins. No hydration and no filtering are furnished by Macdonald et al. in clear contrast to the requirements of applicants' claims.

The Office Action continues:

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Biovaleur by substituting the lactic acid of Macdonald et al. for the acid solution used in Biovaleur, as well as to perform multiple filtering steps using filters of increasing density to the collagen/acid solution. The motivation to use the lactic acid is given by Macdonald et al., which teaches that lactic acid is an antimicrobial organic acid that will contribute to the purity of the extracted collagen product, and the motivation to perform multiple filtering steps using increasing density filters is given by Shimizu et al., which teaches filtration eliminates residual substances including odorous greases and oils, therefore allowing for a more pure collagen product (claims 1-3).

Applicants respectfully disagree:

Macdonald et al. teach to employ lactic acid as a preservative to be combined with a paste of homogenized skins. A person of ordinary skill in the art would not be led by the Macdonald et al. reference to employ lactic acid as a hydration agent.

In addition, the lactic acid concentration of 0.1 % required in applicants' claims is higher than a concentration furnished for preservation purposes only according to the reference Macdonald et al.

In contrast to the reference Shimizu teaching filtration under pressure, the present claims require filtration in a presence of natural silk filters.

It is further noted that the three references applied all have different concerns and different motivations and thereby prevent combination by a person of ordinary skill in the art.

Biovaleur produces a mixture for food purposes, Shimizu furnishes collagen in liquid or compressed form and Macdonald et al. provide a paste of homogenized skins as a wine additive in contrast to the biologically active collagen product of the present invention represented by a tropo-collagen gel..

Applicant urges that the claims under consideration clearly define the invention over the art applied.

A rejection based an double patenting of the "same invention" type finds its support in the language of 35 U. S. C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain _a patent therefor..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.,* 151 U.S. 186 (1894); *In re Ockert,* 245 F.2d 467, 114 **USPQ 330 (CCPA** 1957); and *In re Vogel,* 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

Applicant is advised that should claims 1-2 be found allowable, claims 3-5 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim.

The present amendment changes claims 1 and 3 such that no double patenting rejection will any longer apply.

No claim stands allowed.

Reconsideration of all outstanding rejections is respectfully requested.

Entry of the present response is respectfully requested. All claims as submitted are deemed to be in form for allowance and an early notice of allowance is earnestly solicited.

Respectfully submitted,
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